

Applicants : Kevin D. Parris et al.
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REMARKS

Claims 15-22 and 35-90 were pending in the subject application. Claims 18 and 22 have been withdrawn from consideration by the Examiner as directed to non-elected subject matter. By this Amendment applicants have canceled claims 18, 22, and 85-90 without prejudice or disclaimer and amended claims 15, 19, 35, 68, 71 and 74. Accordingly, upon entry of this Amendment, claims 15-17, 19-21, and 35-84 will be pending.

Applicants maintain that the amendments to the claims do not raise an issue of new matter. Support for the amendments can be found *inter alia* in the specification on page 11, line 9, and in previous claims 85-90. Based on a January 22, 2004 interview between the undersigned attorney and Examiner Cheyne D. Ly and Primary Examiner Ardin H. Marschel, these amendments are understood to place the claims in condition for allowance as discussed further below. Accordingly, entry of the Amendment is respectfully requested.

Interview Summary and Subsequent Amendments

On January 22, 2004, the undersigned attorney conducted a telephonic interview with Examiner Cheyne D. Ly and Primary Examiner Ardin H. Marschel to discuss the outstanding issues preventing allowance of the then pending claims. Applicants and the attorney thank the Examiners for the courtesy of the interview.

Three points were discussed with the conclusions set forth below.

(1) The rejection will be withdrawn of the pending claims under 35 U.S.C. §103(a) as unpatentable over Rosowsky et al. (J. Med. Chem. 42: 4853-60, 1999) in view of *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) taken with Ahern (The Scientist 10[10], 1996).

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(2) The rejection for lack of enablement under 35 U.S.C. §112, 1st paragraph, for the full scope of the claims will be maintained. The Examiners indicated that this rejection can be overcome by reciting the feature "ACPS is cloned and isolated from *B. subtilis*" in each of independent claims 15, 19, 35, 68, 71 and 74. Claims 15, 19, 35, 68, 71 and 74 have accordingly been amended hereinabove to recite this feature in order to place the claims in condition for allowance.

(3) The withdrawal will be maintained of claims 18 and 22 as directed to non-elected subject matter. Claims 18 and 22 have hereinabove been canceled without prejudice or disclaimer in order to allow the remaining pending claims to proceed to allowance.

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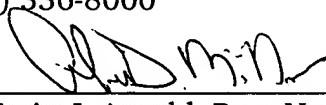
CONCLUSIONS

In light of the amendments and remarks made hereinabove, applicants respectfully request withdrawal of the rejections in the October 15, 2003 Final Office Action and passage of the pending claims to allowance. Should there be any minor matters that prevent allowance of the application, the Examiner is urged to telephone the undersigned attorney.

A check for \$110.00 is enclosed to cover the fee for a one month extension of time. No other fee is deemed necessary in connection with the filing of this Amendment. However, if any other fee is required to preserve the pendency of the subject application, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785.

Respectfully submitted,

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New York, New York